

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 10th day of April 2003, at 8:00 P.M., and there were

PRESENT: ANTHONY ESPOSITO, MEMBER
 JOSEPH GIGLIA, MEMBER
 WILLIAM MARYNIEWSKI, MEMBER
 RICHARD QUINN, MEMBER
 ARLIE SCHWAN, MEMBER
 JEFFREY LEHRBACH, CHAIRMAN

ABSENT: ROBERT THILL, MEMBER

ALSO PRESENT: JOHANNA M. COLEMAN, TOWN CLERK
 LEONARD CAMPISANO, ASSIST. BUILDING INSPECTOR

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

PETITION OF GREGG GRABENSTATTER:

THE 1st CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Gregg Grabenstatter, 26 Haskell Drive, Lancaster, New York 14086 for one [1] variance for the purpose of constructing a detached garage on premises owned by the petitioner at 26 Haskell Drive, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 10D.(4) of the Code of the Town of Lancaster. The area of the proposed accessory structure is eight hundred twenty eight [828] square feet.

Chapter 50, Zoning, Section 10D.(4) of the Code of the Town of Lancaster limits the area of accessory structures to seven hundred fifty [750] square feet. The petitioner, therefore, requests a seventy eight [78] square foot variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Gregg Grabenstatter, 26 Haskell Drive, petitioner

Howard Grabenstatter, 6300 Goodrich Road, Clarence Center, proponent

IN THE MATTER OF THE PETITION OF GREGG GRABENSTATTER

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. ESPOSITO WHO MOVED ITS
ADOPTION, SECONDED BY MR. QUINN
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Gregg Grabenstatter and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 10th day of April 2003, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That the addition of the proposed accessory structure will be a positive improvement to the character of the neighborhood.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is not self created.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following condition which in the opinion of this board is an appropriate condition to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That no commercial enterprise, other than those permitted by Code of the Town of Lancaster, be conducted on the premises.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	WAS ABSENT
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED.**

April 10, 2003

PETITION OF MARK & KATHLEEN FULLER:

THE 2nd CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Mark & Kathleen Fuller, 30 Quail Run Lane, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a six [6] foot high fence in a required open space area on premises owned by the petitioners at 30 Quail Run Lane, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Quail Run Lane with an exterior side yard [considered a front yard equivalent] fronting on Hunter's Drive. The petitioners propose to erect a six [6] foot high fence within the required open space area of the exterior side yard fronting on Hunter's Drive.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the maximum height of a fence or wall extending into a front yard or an exterior side yard [considered a front yard equivalent] to three [3] feet in height. The petitioners, therefore, request a three [3] foot fence height variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Mark & Kathleen Fuller, 30 Quail Run Lane, petitioners

Zoning Board Member Quinn asked that the record reflect that the Zoning Board of Appeals of the Town of Lancaster considers each variance on its own merits and does not base its grant or denial of a variance request on previous variance grants or denials.

IN THE MATTER OF THE PETITION OF MARK & KATHLEEN FULLER

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. LEHRBACH, WHO MOVED ITS
ADOPTION, SECONDED BY MR. MARYNIEWSKI
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Mark & Kathleen Fuller and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 10th day of April 2003, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicants are the present owners of the premises in question.

That the property for which the applicants are petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicants is privacy and security which cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial, however, it is offset by modifications and will not be obtrusive to neighborhood.

That the petitioner has agreed to modify the placement of the fence which will considerably lessen any impact to the aesthetics of the neighborhood.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

That such fence will not unduly shut out light or air to adjoining properties.

That such fence will not create a fire hazard by reason of its construction or location.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following condition which in the opinion of this board is an appropriate condition to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That the fence shall be installed ten (10) feet north of the south property line of the lot and that the southwest and southeast corners of the fence shall be angled to meet the south property line at a 45° angle.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED NO
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	WAS ABSENT
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

April 10, 2003

PETITION OF JOHN & NADYNE HUBER

THE 3rd CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of John & Nadyne Huber, 2 Sugar Mill Court, Lancaster, New York 14086 for one [1] variance for the purpose of permitting a storage shed to remain as positioned on premises owned by the petitioners at 2 Sugar Mill Court, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 10D.(1)(a) of the Code of the Town of Lancaster to permit a storage shed to remain in its location which is one [1] foot from the principal structure.

Chapter 50, Zoning, Section 10D.(1)(a) of the Code of the Town of Lancaster requires an accessory structure to be located ten [10] feet from any other structure. The petitioners, therefore, request a nine [9] foot variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

John & Nadyne Huber, 2 Sugar Mill Court, petitioners

IN THE MATTER OF THE PETITION OF JOHN & NADYNE HUBER

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. QUINN, WHO MOVED ITS
ADOPTION, SECONDED BY MR. ESPOSITO
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of John & Nadyne Huber and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 10th day of April 2003, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicants are the present owners of the premises in question.

That the property for which the applicants are petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.

That although the use sought is a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster, the placement of the structure is in violation of the Code of the Town of Lancaster and therefore presents a safety hazard.

That the petitioner could erect the structure in an area of the rear yard which would adhere to the setback requirements of the Code of the Town of Lancaster.

That a detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicants can be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial.

That the proposed area variance relief will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created.

That this board determined there to be a detriment to the health, safety and welfare of the neighborhood or community by granting the requested variance.

That the petitioner failed to carry the burden of establishing that strict compliance with the Zoning Ordinance would cause practical difficulties rendering the property unusable.

That denial of the variance does not deprive the petitioner of the ability to place a shed on the property according to the requirements of the Code of the Town of Lancaster.

**NOW, THEREFORE, BE IT
RESOLVED** that based upon these findings, the matter of granting the relief be considered.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED NO
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	VOTED NO
MR. QUINN	VOTED NO
MR. SCHWAN	VOTED NO
MR. THILL	WAS ABSENT
MR. LEHRBACH	VOTED NO

The resolution granting the variance was thereupon **DENIED.**

April 10, 2003

PETITION OF MARK & DENISE HANNON:

THE 4th CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Mark A. and Denise M. Hannon, 10 Queen's Way, Depew, New York 14043 for one [1] variance for the purpose of erecting a six [6] foot high fence in a required open space area on premises owned by the petitioners at 10 Queen's Way, Depew, (Town of Lancaster), New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Queen's Way with an exterior side yard [considered a front yard equivalent] fronting on Michael Anthony Lane. The petitioners proposes to erect a six [6] foot high fence within the required open space area of the exterior side yard fronting on Michael Anthony Lane.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the maximum height of a fence or wall extending into a front yard or an exterior side yard [considered a front yard equivalent] to three [3] feet in height. The petitioners, therefore, request a three [3] foot fence height variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Mark & Denise Hannon, 10 Queen's Way, petitioners

IN THE MATTER OF THE PETITION OF MARK & DENISE HANNON

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. LEHRBACH, WHO MOVED ITS
ADOPTION, SECONDED BY MR. QUINN
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Mark & Denise Hannon and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 10th day of April 2003, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicants are the present owners of the premises in question.

That the property for which the applicants are petitioning is within a Residential District 2, (R2) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 2, (R2) as specified in Chapter 50 of the Code of the Town of Lancaster.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial, however the landscaping and hedges serve to mitigate any impact.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That the granting of the variance will afford an added degree of safety for the petitioners' children.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

That such fence will not unduly shut out light or air to adjoining properties.

That such fence will not create a fire hazard by reason of its construction or location.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following condition which in the opinion of this board is an appropriate condition to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That the petitioner landscapes along the south side of the proposed fence and further that the hedge continues to be present along the east side of the fence.

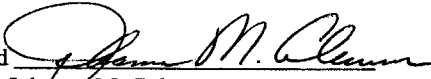
The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED NO
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	WAS ABSENT
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

April 10, 2003

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was
adjourned at 9:34 P.M.

Signed 
Johanna M. Coleman, Town Clerk and
Clerk, Zoning Board of Appeals
Dated: April 10, 2003